



April 10, 2009

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## ENGROSSED SENATE BILL No. 249

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DIGEST OF SB 249 (Updated April 9, 2009 10:16 am - DI 96)

**Citations Affected:** IC 6-6; IC 8-2.1; IC 8-3; IC 9-13; IC 9-17; IC 9-18; IC 9-21; IC 9-24; IC 34-13; noncode.

**Synopsis:** Transportation and tort claim matters. Makes various changes to motor vehicle law pertaining to commercial driver's licenses in order to conform to the Code of Federal Regulations. Authorizes the use of mini-trucks on highways under certain circumstances. Exempts certain intrastate private carriers of persons or property, or both, from the requirements of certain markings on the motor vehicle. Repeals and relocates language concerning regulation of certain motor carriers and private carriers of property. Provides that an application for a commercial driver's license from a holder of a commercial driver's license from another state be conducted in accordance with federal regulations. Specifies that farm tractors or implements of agriculture are not considered motor vehicles for purposes of the special fuel tax on dyed fuel. Provides that a railroad company that stores a railroad car on a track, sidetrack, siding, switch, or turnout track within a municipality for more than 90 days be assessed a civil penalty of \$500 a day beginning with the ninety-first day of storage. Provides that a governmental entity or an employee of a governmental entity acting

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**Effective:** Upon passage; July 1, 2009.

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**Wyss, Merritt, Arnold**

(HOUSE SPONSORS — AUSTIN, DUNCAN)

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January 7, 2009, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

January 29, 2009, reported favorably — Do Pass.

February 2, 2009, read second time, ordered engrossed. Engrossed.

February 3, 2009, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 25, 2009, read first time and referred to Committee on Roads and Transportation.

April 9, 2009, amended, reported — Do Pass.

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ES 249—LS 6871/DI 96+



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within the scope of the employee's employment is not liable if a loss results from the operation of an off-road vehicle by a: (1) nongovernmental employee; or (2) governmental employee not acting within the scope of the employee's employment; on a public highway in a county road system outside the corporate limits of a town, unless the loss is the result of an act or omission amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. Requires that an application to register a vehicle must include the numerical code assigned by the department of local government finance for the taxing district in which the bona fide residence or business address of the person that owns the vehicle is located. Requires that each certificate of registration for a vehicle must include the numerical code.

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April 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 249

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A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicle fuel tax, transportation, motor vehicles, and tort claims.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-6-2.5-62 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE] Sec. 62. (a) No person  
3 shall import, sell, use, deliver, or store in Indiana special fuel in bulk  
4 as to which dye or a marker, or both, has not been added in accordance  
5 with section 31 of this chapter, or as to which the tax imposed by this  
6 chapter has not been paid to or accrued by a licensed supplier or  
7 licensed permissive supplier as shown by a notation on a  
8 terminal-issued shipping paper subject to the following exceptions:  
9 (1) A supplier shall be exempt from this provision with respect to  
10 special fuel manufactured in Indiana or imported by pipeline or  
11 waterborne barge and stored within a terminal in Indiana.  
12 (2) An end user shall be exempt from this provision with respect  
13 to special fuel in a vehicle supply tank when the fuel was placed  
14 in the vehicle supply tank outside of Indiana.  
15 (3) A licensed importer, and transporter operating on the  
16 importer's behalf, that transports in vehicles with a capacity of  
17 more than five thousand four hundred (5,400) gallons, shall be

ES 249—LS 6871/DI 96+



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1 exempt from this prohibition if the importer or the transporter has  
2 met all of the following conditions:

3 (A) The importer or the transporter before entering onto the  
4 highways of Indiana has obtained an import verification  
5 number from the department not earlier than twenty-four (24)  
6 hours before entering Indiana.

7 (B) The import verification number must be set out  
8 prominently and indelibly on the face of each copy of the  
9 terminal-issued shipping paper carried on board the transport  
10 truck.

11 (C) The terminal origin and the importer's name and address  
12 must be set out prominently on the face of each copy of the  
13 terminal-issued shipping paper.

14 (D) The terminal-issued shipping paper data otherwise  
15 required by this chapter is present.

16 (E) All tax imposed by this chapter with respect to previously  
17 requested import verification number activity on the account  
18 of the importer or the transporter has been timely remitted.

19 In every case, a transporter acting in good faith is entitled to rely upon  
20 representations made to the transporter by the fuel supplier or importer  
21 and when acting in good faith is not liable for the negligence or  
22 malfeasance of another person. A person who knowingly violates or  
23 knowingly aids and abets another person in violating this subsection  
24 commits a Class D felony.

25 (b) No person shall export special fuel from Indiana unless that  
26 person has obtained an exporter's license or a supplier's license or has  
27 paid the destination state special fuel tax to the supplier and can  
28 demonstrate proof of export in the form of a destination state bill of  
29 lading. A person who knowingly violates or knowingly aids and abets  
30 another person in violating this subsection commits a Class D felony.

31 (c) No person shall operate or maintain a motor vehicle on any  
32 public highway in Indiana with special fuel contained in the fuel supply  
33 tank for the motor vehicle that contains dye or a marker, or both, as  
34 provided under section 31 of this chapter. This provision does not  
35 apply to persons operating motor vehicles that have received fuel into  
36 their fuel tanks outside of Indiana in a jurisdiction that permits  
37 introduction of dyed or marked, or both, special fuel of that color and  
38 type into the motor fuel tank of highway vehicles or to a person that  
39 qualifies for the federal fuel tax exemption under Section 4082 of the  
40 Internal Revenue Code and that is registered with the department as a  
41 dyed fuel user. A person who knowingly:

42 (1) violates; or

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(2) aids and abets another person in violating;  
 this subsection commits a Class A infraction. However, the violation is a Class A misdemeanor if the person has committed one (1) prior unrelated violation of this subsection, and a Class D felony if the person has committed more than one (1) prior unrelated violation of this subsection. **For purposes of this subsection, "motor vehicle" does not include a farm tractor (as defined in IC 9-13-2-56) or an implement of agriculture (as defined in IC 9-13-2-77).**

(d) No person shall engage in any business activity in Indiana as to which a license is required by section 41 of this chapter unless the person shall have first obtained the license. A person who knowingly violates or knowingly aids and abets another person in violating this subsection commits a Class D felony.

(e) No person shall operate a motor vehicle with a capacity of more than five thousand four hundred (5,400) gallons that is engaged in the shipment of special fuel on the public highways of Indiana and that is destined for a delivery point in Indiana, as shown on the terminal-issued shipping papers, without having on board a terminal-issued shipping paper indicating with respect to any special fuel purchased:

(1) under claim of exempt use, a notation describing the load or the appropriate portion of the load as Indiana tax exempt special fuel;

(2) if not purchased under a claim of exempt use, a notation describing the load or the appropriate portion thereof as Indiana taxed or pretaxed special fuel; or

(3) if imported by or on behalf of a licensed importer instead of the pretaxed notation, a valid verification number provided before entry into Indiana by the department or the department's designee or appointee, and the valid verification number may be handwritten on the shipping paper by the transporter or importer.

A person is in violation of subdivision (1) or (2) (whichever applies) if the person boards the vehicle with a shipping paper that does not meet the requirements described in the applicable subdivision (1) or (2). A person in violation of this subsection commits a Class A infraction (as defined in IC 34-28-5-4).

(f) A person may not sell or purchase any product for use in the supply tank of a motor vehicle for general highway use that does not meet ASTM standards as published in the annual Book of Standards and its supplements unless amended or modified by rules adopted by the department under IC 4-22-2. The transporter and the transporter's agent and customer have the exclusive duty to dispose of any product

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in violation of this section in the manner provided by federal and state law. A person who knowingly:

- (1) violates; or
  - (2) aids and abets another in violating;
- this subsection commits a Class D felony.

(g) This subsection does not apply to the following:

- (1) A person that:
  - (A) inadvertently manipulates the dye or marker concentration of special fuel or coloration of special fuel; and
  - (B) contacts the department within one (1) business day after the date on which the contamination occurs.
- (2) A person that affects the dye or marker concentration of special fuel by engaging in the blending of the fuel, if the blender:
  - (A) collects or remits, or both, all tax due as provided in section 28(g) of this chapter;
  - (B) maintains adequate records as required by the department to account for the fuel that is blended and its status as a taxable or exempt sale or use; and
  - (C) is otherwise in compliance with this subsection.

A person may not manipulate the dye or marker concentration of a special fuel or the coloration of special fuel after the special fuel is removed from a terminal or refinery rack for sale or use in Indiana. A person who knowingly violates or aids and abets another person to violate this subsection commits a Class D felony.

(h) This subsection does not apply to a person that receives blended fuel from a person in compliance with subsection (g)(2). A person may not sell or consume special fuel if the special fuel dye or marker concentration or coloration has been manipulated, inadvertently or otherwise, after the special fuel has been removed from a terminal or refinery rack for sale or use in Indiana. A person who knowingly:

- (1) violates; or
  - (2) aids and abets another to violate;
- this subsection commits a Class D felony.

(i) A person may not engage in blending fuel for taxable use in Indiana without collecting and remitting the tax due on the untaxed portion of the fuel that is blended. A person who knowingly:

- (1) violates; or
  - (2) aids and abets another to violate;
- this subsection commits a Class D felony.

SECTION 2. IC 8-2.1-24-1, AS AMENDED BY P.L.42-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **Except as provided in subsection (b),**

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1 this chapter applies to the certification of a motor carrier providing  
 2 intrastate transportation by motor vehicle of property or passengers for  
 3 compensation.

4 **(b) Section 18 of this chapter applies to the regulation of the**  
 5 **following persons:**

6 **(1) A motor carrier described in subsection (a).**

7 **(2) A private carrier of persons or property, or both.**

8 SECTION 3. IC 8-2.1-24-18, AS AMENDED BY P.L.21-2007,  
 9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382  
 11 through 387, 390 through 393, and 395 through 398 are incorporated  
 12 into Indiana law by reference, and, except as provided in subsections  
 13 (d), (e), (f), and (g), must be complied with by an interstate and  
 14 intrastate motor carrier of persons or property throughout Indiana.  
 15 Intrastate motor carriers subject to compliance reviews under 49 CFR  
 16 385 shall be selected according to criteria determined by the  
 17 superintendent which must include but are not limited to factors such  
 18 as previous history of violations found in roadside compliance checks  
 19 and other recorded violations. However, the provisions of 49 CFR 395  
 20 that regulate the hours of service of drivers, including requirements for  
 21 the maintenance of logs, do not apply to a driver of a truck that is  
 22 registered by the bureau of motor vehicles and used as a farm truck  
 23 under IC 9-18, or a vehicle operated in intrastate construction or  
 24 construction related service, or the restoration of public utility services  
 25 interrupted by an emergency. Except as provided in subsection (i):

26 **(1)** intrastate motor carriers not operating under authority issued  
 27 by the United States Department of Transportation shall comply  
 28 with the requirements of 49 CFR 390.21(b)(3) by registering with  
 29 the department of state revenue as an intrastate motor carrier and  
 30 displaying the certification number issued by the department of  
 31 state revenue preceded by the letters "IN"; ~~Except as provided in~~  
 32 ~~subsection (i); and~~

33 **(2)** all other requirements of 49 CFR 390.21 apply equally to  
 34 interstate and intrastate motor carriers.

35 **(b)** 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177  
 36 through 178, and 180, are incorporated into Indiana law by reference,  
 37 and every:

- 38 (1) private carrier;
- 39 (2) common carrier;
- 40 (3) contract carrier;
- 41 (4) motor carrier of property, intrastate;
- 42 (5) hazardous material shipper; and



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(6) carrier otherwise exempt under section 3 of this chapter; must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

(1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.

(2) The shipment of goods is limited to intrastate commerce.

(3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

~~All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the~~ Maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection. ~~after June 30, 1998.~~

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a

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person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has been diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is not otherwise physically disqualified under Subpart 391.41 to operate a motor vehicle, whether or not any additional disqualifying condition results from the diabetic condition, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver

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licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. Notwithstanding the requirements of this subdivision, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this subdivision.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate **motor** carrier:

(1) or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise; or

(2) **operating a motor vehicle exclusively in intrastate commerce that does not have a gross vehicle weight, gross vehicle weight rating, gross combination weight, or gross combination weight rating with a gross combination weight rating of equal to or less than twenty-six thousand one (26,001) pounds. However, the motor vehicle may not be:**

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- (A) used to provide for-hire transport;
- (B) designed or used to transport sixteen (16) or more passengers, including the driver; or
- (C) used to transport hazardous material in amounts requiring a placard.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 4. IC 8-3-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(b) As used in this chapter, "railroad" means a Class I, Class II, or Class III railroad as established by the Interstate Commerce Commission.

(c) A railroad may not store a railroad car, whether loaded or empty, on a track, sidetrack, siding, switch, spur, or turnout track within the limits of a municipality for longer than ninety (90) days unless the area of storage has been zoned appropriately as a confined area for railroad car storage.

(d) A railroad that stores a railroad car subject to subsection (c) shall place a tag on the railroad car prominently displaying the date that the railroad car was first placed on the track, sidetrack, siding, switch, spur, or turnout track. A railroad that fails to place a tag in this manner on a railroad car shall be assessed a civil penalty of one hundred dollars (\$100) by the department.

(e) A police officer who finds or is notified of a railroad car that does not bear a tag as required under subsection (d) shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, police officer's name, public agency employing the police officer, and address and telephone number to contact for information.
- (2) That the railroad car is required to bear a tag as required by this section.

The police officer shall immediately notify the department of the placement of the notice tag by the police officer. The department shall maintain records of notifications by police officers.

(f) A railroad that fails to move a railroad car from a track, sidetrack, siding, switch, spur, or turnout track after ninety (90) days from the date of first placement on the track, sidetrack, siding, switch, spur, or turnout track shall be assessed a civil

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penalty by the department of five hundred dollars (\$500) a day for each day that the railroad car has remained on the track, sidetrack, siding, switch, spur, or turnout track, beginning with the ninety-first day of storage. For purposes of subsection (e) and this subsection, the date that the police officer has placed on the notice tag is considered to be the date of first placement of the railroad car. Each railroad car that is stored shall be assessed a separate civil penalty.

(g) A civil penalty assessed and collected by the department under subsection (d) or (f) shall be deposited by the department in the general fund of the municipality in which the railroad car that is the subject of the civil penalty is located.

SECTION 5. IC 8-3-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **Except as provided in section 1.5 of this chapter**, the term "railroad" as used in this chapter shall mean and include any railroad whether its locomotives are powered by steam, combustion-type fuel or electricity other than a hobby, tourist, amusement, and non-freight-carrying railroad.

SECTION 6. IC 8-3-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) **Except as provided in section 1.5 of this chapter**, a carrier subject to this chapter who knowingly violates or fails to comply with this chapter commits a Class B infraction.

(b) A carrier who fails to comply with any final order made against it by the department in any proceeding pending before the department, in which any carrier is a party, unless the order is suspended, annulled, or set aside by some court, shall forfeit and pay to the state for each violation of any such order a penalty of not more than one thousand dollars (\$1,000).

(c) A carrier subject to this chapter who knowingly charges, collects, demands, or receives from any person a different rate, charge, or compensation for the transportation of persons or property, or for any service performed or to be performed by the carrier, than that fixed in the schedule of rates filed with the department, the schedule of rates adopted by the department, or the schedule of rates ordered observed by any court, commits a Class A infraction.

SECTION 7. IC 9-13-2-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.2. "Alcohol", for purposes of IC 9-24-6, has the meaning set forth in IC 9-24-6-0.3.**

SECTION 8. IC 9-13-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 29. "Commercial

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1 driver's license" means a license issued by the state to an individual  
 2 that authorizes the individual to operate a class of commercial motor  
 3 vehicles. **has the meaning set forth in 49 CFR 383.5, as in effect on**  
 4 **July 1, 2009.**

5 SECTION 9. IC 9-13-2-35 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. **(a) Except as**  
 7 **provided in subsection (b), "controlled substance" has the meaning set**  
 8 **forth in IC 35-48-1.**

9 **(b) "Controlled substance", for purposes of IC 9-24-6, has the**  
 10 **meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.**

11 SECTION 10. IC 9-13-2-38 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 38. **(a) Except as**  
 13 **provided in subsection (b), "conviction" includes the following:**

- 14 (1) A conviction or judgment upon a plea of guilty or nolo  
 15 contendere.
- 16 (2) A determination of guilt by a jury or a court, even if:  
 17 (A) no sentence is imposed; or  
 18 (B) a sentence is suspended.
- 19 (3) A forfeiture of bail, bond, or collateral deposited to secure the  
 20 defendant's appearance for trial, unless the forfeiture is vacated.
- 21 (4) A payment of money as a penalty or as costs in accordance  
 22 with an agreement between a moving traffic violator and a traffic  
 23 violations bureau.

24 **(b) "Conviction", for purposes of IC 9-24-6, has the meaning set**  
 25 **forth in 49 CFR 383.5, as in effect on July 1, 2009.**

26 SECTION 11. IC 9-13-2-42, AS AMENDED BY P.L.131-2008,  
 27 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2009]: Sec. 42. (a) "Dealer" means, except as otherwise  
 29 provided in this section, a person who sells to the general public,  
 30 including a person who sells directly by the Internet or other computer  
 31 network, at least twelve (12) vehicles each year for delivery in Indiana.  
 32 The term includes a person who sells off-road vehicles **and**  
 33 **mini-trucks**. A dealer must have an established place of business that  
 34 meets the minimum standards prescribed by the bureau under rules  
 35 adopted under IC 4-22-2.

36 (b) The term does not include the following:

- 37 (1) A receiver, trustee, or other person appointed by or acting  
 38 under the judgment or order of a court.
- 39 (2) A public officer while performing official duties.
- 40 (3) A person who is a dealer solely because of activities as a  
 41 transfer dealer.

42 (c) "Dealer", for purposes of IC 9-31, means a person that sells to

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the general public for delivery in Indiana at least six (6):

(1) boats; or

(2) trailers:

(A) designed and used exclusively for the transportation of watercraft; and

(B) sold in general association with the sale of watercraft; per year.

SECTION 12. IC 9-13-2-103.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 103.1. "Mini-truck" means a truck that:**

**(1) is powered by an internal combustion engine with a piston or rotor displacement of not less than six hundred sixty (660) cubic centimeters;**

**(2) is sixty (60) inches or less in width;**

**(3) has an unladen dry weight of one thousand six hundred (1,600) pounds or less;**

**(4) can achieve a top speed of not more than sixty (60) miles per hour;**

**(5) is manufactured with a locking enclosed cab and a heated interior; and**

**(6) is operated on a highway.**

SECTION 13. IC 9-13-2-105, AS AMENDED BY P.L.191-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

(1) a vehicle except a motorized bicycle that is self-propelled; or

(2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

(e) "Motor vehicle", for purposes of IC 9-23-2 and IC 9-23-3, includes a semitrailer.

**(f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.**

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1 SECTION 14. IC 9-13-2-161 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 161. (a) "School bus"  
 3 means, except as provided in subsection (b), a:

- 4 (1) bus;
- 5 (2) hack;
- 6 (3) conveyance;
- 7 (4) commercial motor vehicle; or
- 8 (5) motor vehicle;

9 used to transport preschool, elementary, or secondary school children  
 10 to and from school and to and from school athletic games or contests  
 11 or other school functions. The term does not include a privately owned  
 12 automobile with a capacity of not more than five (5) passengers that is  
 13 used for the purpose of transporting school children to and from school.

14 **For purposes of IC 9-24-6, the term does not include a bus used as**  
 15 **a common carrier.**

16 (b) "School bus", for purposes of IC 9-21, means a motor vehicle  
 17 owned by a public or governmental agency and operated for the  
 18 transportation of children to or from school, including project  
 19 headstart, or privately owned and operated for compensation for the  
 20 transportation of children to and from school, including project  
 21 headstart.

22 SECTION 15. IC 9-13-2-173, AS AMENDED BY P.L.2-2007,  
 23 SECTION 141, IS AMENDED TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2009]: Sec. 173. (a) "State" means, except as  
 25 otherwise provided by this section and unless by the context some other  
 26 state or territory or federal district of the United States is meant or  
 27 intended, the state of Indiana.

28 (b) "State", for purposes of IC 9-27-1, means the state of Indiana,  
 29 the governor of Indiana, an agency of the state of Indiana designated by  
 30 the governor to receive federal aid, and any officer, board, bureau,  
 31 commission, division, or department, any public body corporate and  
 32 politic created by the state of Indiana for public purposes, or any state  
 33 educational institution.

34 (c) "State", for purposes of IC 9-25, means any state in the United  
 35 States, the District of Columbia, or any Province of the Dominion of  
 36 Canada.

37 (d) "State", for purposes of section 120.5 of this chapter **and**  
 38 **IC 9-24-6**, means any state in the United States or the District of  
 39 Columbia.

40 SECTION 16. IC 9-13-2-196, AS AMENDED BY P.L.41-2006,  
 41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2009]: Sec. 196. (a) "Vehicle" means, except as otherwise

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provided in this section, a device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway.

(b) "Vehicle", for purposes of IC 9-14 through IC 9-18, does not include the following:

- (1) A device moved by human power.
- (2) A vehicle that runs only on rails or tracks.
- (3) A vehicle propelled by electric power obtained from overhead trolley wires but not operated upon rails or tracks.
- (4) A firetruck and apparatus owned by a person or municipal division of the state and used for fire protection.
- (5) A municipally owned ambulance.
- (6) A police patrol wagon.
- (7) A vehicle not designed for or employed in general highway transportation of persons or property and occasionally operated or moved over the highway, including the following:
  - (A) Road construction or maintenance machinery.
  - (B) A movable device designed, used, or maintained to alert motorists of hazardous conditions on highways.
  - (C) Construction dust control machinery.
  - (D) Well boring apparatus.
  - (E) Ditch digging apparatus.
  - (F) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.
  - (G) An invalid chair.
  - (H) A yard tractor.
- (8) An electric personal assistive mobility device.

(c) For purposes of IC 9-20 and IC 9-21, the term does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(d) For purposes of IC 9-22, the term refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, a trailer or semitrailer used in the transportation of watercraft, or a motorized bicycle.

**(e) For purposes of IC 9-24-6, the term has the meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.**

~~(e)~~ (f) For purposes of IC 9-30-5, IC 9-30-6, IC 9-30-8, and IC 9-30-9, the term means a device for transportation by land or air. The term does not include an electric personal assistive mobility device.

SECTION 17. IC 9-17-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This article does not apply to farm wagons or to a motor vehicle that was designed to

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1 have a maximum design speed of not more than twenty-five (25) miles  
 2 per hour and that was built, constructed, modified, or assembled by a  
 3 person other than the manufacturer.

4 **(b) IC 9-17-2, IC 9-17-3, IC 9-17-4, IC 9-17-5, and IC 9-17-8**  
 5 **apply to a mini-truck.**

6 SECTION 18. IC 9-18-1-2 IS ADDED TO THE INDIANA CODE  
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 8 1, 2009]: **Sec. 2. This article applies to a mini-truck with the**  
 9 **exception of the following:**

10 **(1) IC 9-18-7.**

11 **(2) IC 9-18-9 through IC 9-18-11.**

12 **(3) IC 9-18-13.**

13 **(4) IC 9-18-27.**

14 SECTION 19. IC 9-18-2-16 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 16. (a) A person who**  
 16 **owns a vehicle must sign an application in ink to register the vehicle.**

17 **(b) An application to register a vehicle must contain the following:**

18 **(1) The:**

19 **(A) name, address for the bona fide residence, and mailing**  
 20 **address, including the name of the county, of the person who**  
 21 **owns the vehicle, and the numerical code assigned by the**  
 22 **department of local government finance for the taxing**  
 23 **district in which the bona fide residence of the person who**  
 24 **owns the vehicle is located; or**

25 **(B) business address, including the name of the county, of the**  
 26 **person that owns the vehicle if the person that owns the**  
 27 **vehicle is a firm, a partnership, an association, a corporation,**  
 28 **a limited liability company, or a unit of government, the**  
 29 **following information:**

30 **(i) The business address, including the name of the**  
 31 **county, of the person that owns the vehicle.**

32 **(ii) The numerical code assigned by the department of**  
 33 **local government finance for the taxing district in which**  
 34 **the business address of the person that owns the vehicle**  
 35 **is located.**

36 If the vehicle that is being registered has been leased and is  
 37 subject to the motor vehicle excise tax under IC 6-6-5 or the  
 38 commercial vehicle excise tax under IC 6-6-5.5, the application  
 39 must contain the address of the person who is leasing the vehicle.  
 40 If the vehicle that is being registered has been leased and is not  
 41 subject to the motor vehicle excise tax under IC 6-6-5 or the  
 42 commercial vehicle excise tax under IC 6-6-5.5, the application

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must contain the address of the person who owns the vehicle, the person who is the lessor of the vehicle, or the person who is the lessee of the vehicle. If a leased vehicle is to be registered under the International Registration Plan, the registration procedures are governed by the terms of the plan.

(2) A brief description of the vehicle to be registered, including the following information if available:

(A) The name of the manufacturer of the vehicle.

(B) The vehicle identification number.

(C) The manufacturer's rated capacity if the vehicle is a truck, tractor, trailer, or semitrailer.

(D) The type of body of the vehicle.

(E) The model year of the vehicle.

(F) Any other information reasonably required by the bureau to enable the bureau to determine if the vehicle may be registered. The bureau may request the person applying for registration to provide the vehicle's odometer reading.

(3) A space on the application in which the person registering the vehicle may indicate the person's desire to donate money to organizations that promote the procurement of organs for anatomical gifts. The space on the application must:

(A) allow the person registering the vehicle to indicate the amount the person desires to donate; and

(B) provide that the minimum amount a person may donate is one dollar (\$1).

Funds collected under this subdivision shall be deposited with the treasurer of state in a special account. The auditor of state shall monthly distribute the money in the special account to the anatomical gift promotion fund established by IC 16-19-3-26. The bureau may deduct from the funds collected under this subdivision the costs incurred by the bureau in implementing and administering this subdivision.

(c) The department of state revenue may audit records of persons who register trucks, trailers, semitrailers, buses, and rental cars under the International Registration Plan to verify the accuracy of the application and collect or refund fees due.

**(d) The bureau shall provide each applicant for registration with the taxing district information necessary to comply with subsection (b)(1). The department of local government finance and each county auditor shall provide the bureau with the information necessary to carry out this subsection for each application submitted for a registration year beginning after December 31,**

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1 **2009.**

2 SECTION 20. IC 9-18-2-20 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) The bureau,  
4 upon registering a vehicle required to be registered by this chapter,  
5 shall issue a certificate of registration.

6 (b) The certificate of registration shall be delivered to the person  
7 leasing the vehicle or to the person who owns the vehicle and shall  
8 contain upon the face of the card the following information:

9 (1) The name and address of the person leasing the vehicle or the  
10 person who owns the vehicle.

11 **(2) The numerical code assigned by the department of local**  
12 **government finance for the taxing district in which the bona**  
13 **fide residence or business address of the person who owns or**  
14 **leases the vehicle is located.**

15 ~~(2)~~ (3) The date the card was issued.

16 ~~(3)~~ (4) The registration number assigned to the vehicle.

17 ~~(4)~~ (5) A description of the vehicle as determined by the bureau.

18 (c) If a certificate of registration is mutilated, destroyed, or lost, a  
19 duplicate certificate of registration must be purchased. The application  
20 for a duplicate certificate of registration must be accompanied by the  
21 service charge prescribed under IC 9-29.

22 **(d) The department of local government finance and each**  
23 **county auditor shall provide the bureau with any assistance**  
24 **necessary to enable the bureau to include the taxing district**  
25 **information required by subsection (b)(2) on each certificate of**  
26 **registration issued for a registration year beginning after**  
27 **December 31, 2010.**

28 SECTION 21. IC 9-21-8-46, AS AMENDED BY P.L.210-2005,  
29 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2009]: Sec. 46. (a) A person may not drive or operate:

31 (1) an implement of agriculture designed to be operated primarily  
32 in a farm field or on farm premises; ~~or~~

33 (2) a piece of special machinery; **or**

34 **(3) a mini-truck;**

35 upon any part of an interstate highway.

36 **(b) In addition to the prohibition set forth in subsection (a), a**  
37 **mini-truck may not be operated on a divided four (4) lane highway.**

38 SECTION 22. IC 9-24-6-0.3 IS ADDED TO THE INDIANA CODE  
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
40 1, 2009]: Sec. 0.3. As used in this chapter, "alcohol" has the  
41 meaning set forth in 49 CFR 383.5, as in effect on July 1, 2009.

42 SECTION 23. IC 9-24-6-2, AS AMENDED BY P.L.188-2006,

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SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.

(b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. 31104, 49 U.S.C. 31301 through 31306, 49 U.S.C. 31308 through 31317, and 49 CFR 383 through 384, and may not be more restrictive than the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law ~~106-159, 113~~ **106-159, 113** Stat. 1748).

(c) Rules adopted under this section must include the following:

(1) Establishment of classes and periods of validation of commercial driver's licenses.

(2) Standards for commercial driver's licenses, including suspension and revocation procedures.

(3) Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of Indiana residence.

(4) Development of written or oral tests, driving tests, and fitness requirements.

(5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including a unique identifier of the holder.

(6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.

(7) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.

(8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued. **The rules must carry out 49 CFR 383.71(b) with respect to an application for a commercial driver's license for a holder of a commercial driver's license in another state who seeks a transfer of the commercial driver's license to Indiana.**

(9) Other rules necessary to administer this chapter.

(d) 49 CFR 383 through 384 are adopted as Indiana law.

SECTION 24. IC 9-24-6-6, AS AMENDED BY P.L.1-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The following, if committed while driving a commercial motor vehicle **or holding any class of commercial driver's license**, are serious traffic violations:

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(1) Operating a vehicle at least fifteen (15) miles per hour above the posted speed limit in violation of IC 9-21-5, IC 9-21-6, or IC 9-21-5-14.

(2) Operating a vehicle recklessly as provided in IC 9-21-8-50 and IC 9-21-8-52.

(3) Improper or erratic traffic lane changes in violation of IC 9-21-8-2 through IC 9-21-8-13 and IC 9-21-8-17 through IC 9-21-8-18.

(4) Following a vehicle too closely in violation of IC 9-21-8-14 through IC 9-21-8-16.

(5) In connection with a fatal accident, violating any statute, ordinance, or rule concerning motor vehicle traffic control other than parking statutes, ordinances, or rules.

(6) Operating a vehicle while disqualified under this chapter.

(7) For drivers who are not required to always stop at a railroad crossing, failing to do any of the following:

(A) Slow down and determine that the railroad tracks are clear of an approaching train, in violation of IC 9-21-5-4, IC 9-21-8-39, IC 35-42-2-4, or any similar statute.

(B) Stop before reaching the railroad crossing, if the railroad tracks are not clear of an approaching train, in violation of IC 9-21-4-16, IC 9-21-8-39, or any similar statute.

(8) For all drivers, whether or not they are required to always stop at a railroad crossing, to do any of the following:

(A) Stopping in a railroad crossing, in violation of IC 9-21-8-50 or any similar statute.

(B) Failing to obey a traffic control device or failing to obey the directions of a law enforcement officer at a railroad crossing, in violation of IC 9-21-8-1 or any similar statute.

(C) Stopping in a railroad crossing because of insufficient undercarriage clearance, in violation of IC 35-42-2-4, IC 9-21-8-50, or any similar statute.

**(9) Operating a commercial motor vehicle without having ever obtained a commercial driver's license.**

**(10) Operating a commercial motor vehicle without a commercial driver's license in the possession of the individual.**

**(11) Operating a commercial motor vehicle without holding the proper class or endorsement of a commercial driver's license for the operation of the class of commercial motor vehicle.**

(b) Subsection (a)(1) and (a)(8) is intended to comply with the provisions of 49 U.S.C. 31311(a)(10) and regulations adopted under

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that statute.

SECTION 25. IC 9-24-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. The following, if committed while driving a commercial motor vehicle **or holding any class of commercial driver's license**, are disqualifying offenses:

(1) Operating a vehicle while under the influence of alcohol in violation of IC 9-30-5-1(a), IC 9-30-5-1(b), or section 15 of this chapter.

(2) Operating a vehicle while under the influence of a controlled substance in violation of IC 9-30-5-1(c).

(3) Leaving the scene of an accident involving the driver's commercial motor vehicle in violation of IC 9-26-1.

(4) Conviction of a felony involving the use of a commercial motor vehicle other than a felony described in subdivision (5).

(5) Use of a commercial motor vehicle in the commission of a felony under IC 35-48 involving manufacturing, distributing, or dispensing of a controlled substance.

(6) Violation of IC 9-30-5-2 through IC 9-30-5-8 involving operating a vehicle while intoxicated.

(7) Refusing to undergo testing for the enforcement of IC 9-30-5-1 or section 15 of this chapter.

SECTION 26. IC 9-24-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. A person who knowingly allows, requires, permits, or authorizes another person who is ~~disqualified under this article~~ **subject to an out-of-service order** from driving a commercial motor vehicle to drive a commercial motor vehicle commits a Class C misdemeanor.

SECTION 27. IC 9-24-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) It is unlawful for a person to violate or fail to comply with an out-of-service order.

(b) If a person operates a vehicle in violation of an out-of-service order, in addition to any other penalty imposed for violation of an out-of-service order under this chapter, the court shall impose a civil penalty ~~of one thousand dollars (\$1,000)~~ **in accordance with 49 CFR 383.53, as in effect on July 1, 2009.**

(c) If an employer violates an out-of-service order, or knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, in addition to any other penalty imposed for violation of an out-of-service order under this chapter, the court shall impose a civil penalty on the employer ~~of two thousand five hundred dollars (\$2,500)~~ **in accordance with 49 CFR 383.53, as in effect on July 1, 2009.**

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(d) All civil penalties assessed under this section must be collected and transferred by the clerk of the court to the bureau. The bureau shall deposit the money in the motor vehicle highway account established by IC 8-14-1.

(e) A civil penalty assessed under this section is a judgment subject to proceedings supplemental by the bureau.

SECTION 28. IC 34-13-3-3, AS AMENDED BY P.L.47-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
  - (A) a set of rules governing the use of the extreme sport area;
  - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
  - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

- (6) The initiation of a judicial or an administrative proceeding.
- (7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.
- (8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
- (9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

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(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of

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a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

- (A) a computer;
- (B) an information system; or
- (C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

- (A) the loss is a result of reckless conduct; or
- (B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

**(24) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a:**

- (A) nongovernmental employee; or**
- (B) governmental employee not acting within the scope of the employee's employment;**

**on a public highway in a county road system outside the corporate limits of a town, unless the loss is the result of an act or omission amounting to gross negligence, willful or wanton misconduct, or intentional misconduct.**

SECTION 29. IC 8-2.1-24-2 IS REPEALED [EFFECTIVE UPON

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1       PASSAGE].

2       SECTION 30. [EFFECTIVE UPON PASSAGE] (a) As used in this

3       SECTION, "bureau" means the bureau of motor vehicles created

4       by IC 9-14-1-1.

5       (b) Notwithstanding IC 9-24-6-2(c)(8), as amended by this act,

6       the bureau, under interim written guidelines approved by the

7       commissioner of the bureau, shall provide that, after June 30, 2009,

8       an application for a commercial driver's license for a holder of a

9       commercial driver's license from another state be conducted in

10      accordance with 49 CFR 383.71(b).

11      (c) This SECTION expires on the earlier of the following:

12          (1) The date rules are adopted under IC 9-24-6-2(c)(8), as

13          amended by this act.

14          (2) December 31, 2010.

15      SECTION 31. [EFFECTIVE UPON PASSAGE] (a) As used in this

16      SECTION, "bureau" means the bureau of motor vehicles created

17      by IC 9-14-1-1.

18      (b) As used in this SECTION, "mini-truck" has the meaning set

19      forth in IC 9-13-2-103.1, as added by this act.

20      (c) Before July 1, 2009, in accordance with IC 6-6-5-3(b), the

21      bureau shall determine the true tax value for each make and model

22      of mini-truck, subject to review and adjustment by the department

23      of local government finance.

24      (d) This SECTION expires December 31, 2010.

25      SECTION 32. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 249, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 249 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 10, Nays 0.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 249, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicle fuel tax, transportation, motor vehicles, and tort claims.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-6-2.5-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] Sec. 62. (a) No person shall import, sell, use, deliver, or store in Indiana special fuel in bulk as to which dye or a marker, or both, has not been added in accordance with section 31 of this chapter, or as to which the tax imposed by this chapter has not been paid to or accrued by a licensed supplier or licensed permissive supplier as shown by a notation on a terminal-issued shipping paper subject to the following exceptions:

- (1) A supplier shall be exempt from this provision with respect to special fuel manufactured in Indiana or imported by pipeline or waterborne barge and stored within a terminal in Indiana.
- (2) An end user shall be exempt from this provision with respect to special fuel in a vehicle supply tank when the fuel was placed in the vehicle supply tank outside of Indiana.
- (3) A licensed importer, and transporter operating on the importer's behalf, that transports in vehicles with a capacity of more than five thousand four hundred (5,400) gallons, shall be exempt from this prohibition if the importer or the transporter has

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met all of the following conditions:

- (A) The importer or the transporter before entering onto the highways of Indiana has obtained an import verification number from the department not earlier than twenty-four (24) hours before entering Indiana.
- (B) The import verification number must be set out prominently and indelibly on the face of each copy of the terminal-issued shipping paper carried on board the transport truck.
- (C) The terminal origin and the importer's name and address must be set out prominently on the face of each copy of the terminal-issued shipping paper.
- (D) The terminal-issued shipping paper data otherwise required by this chapter is present.
- (E) All tax imposed by this chapter with respect to previously requested import verification number activity on the account of the importer or the transporter has been timely remitted.

In every case, a transporter acting in good faith is entitled to rely upon representations made to the transporter by the fuel supplier or importer and when acting in good faith is not liable for the negligence or malfeasance of another person. A person who knowingly violates or knowingly aids and abets another person in violating this subsection commits a Class D felony.

(b) No person shall export special fuel from Indiana unless that person has obtained an exporter's license or a supplier's license or has paid the destination state special fuel tax to the supplier and can demonstrate proof of export in the form of a destination state bill of lading. A person who knowingly violates or knowingly aids and abets another person in violating this subsection commits a Class D felony.

(c) No person shall operate or maintain a motor vehicle on any public highway in Indiana with special fuel contained in the fuel supply tank for the motor vehicle that contains dye or a marker, or both, as provided under section 31 of this chapter. This provision does not apply to persons operating motor vehicles that have received fuel into their fuel tanks outside of Indiana in a jurisdiction that permits introduction of dyed or marked, or both, special fuel of that color and type into the motor fuel tank of highway vehicles or to a person that qualifies for the federal fuel tax exemption under Section 4082 of the Internal Revenue Code and that is registered with the department as a dyed fuel user. A person who knowingly:

- (1) violates; or
- (2) aids and abets another person in violating;

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this subsection commits a Class A infraction. However, the violation is a Class A misdemeanor if the person has committed one (1) prior unrelated violation of this subsection, and a Class D felony if the person has committed more than one (1) prior unrelated violation of this subsection. **For purposes of this subsection, "motor vehicle" does not include a farm tractor (as defined in IC 9-13-2-56) or an implement of agriculture (as defined in IC 9-13-2-77).**

(d) No person shall engage in any business activity in Indiana as to which a license is required by section 41 of this chapter unless the person shall have first obtained the license. A person who knowingly violates or knowingly aids and abets another person in violating this subsection commits a Class D felony.

(e) No person shall operate a motor vehicle with a capacity of more than five thousand four hundred (5,400) gallons that is engaged in the shipment of special fuel on the public highways of Indiana and that is destined for a delivery point in Indiana, as shown on the terminal-issued shipping papers, without having on board a terminal-issued shipping paper indicating with respect to any special fuel purchased:

- (1) under claim of exempt use, a notation describing the load or the appropriate portion of the load as Indiana tax exempt special fuel;
- (2) if not purchased under a claim of exempt use, a notation describing the load or the appropriate portion thereof as Indiana taxed or pretaxed special fuel; or
- (3) if imported by or on behalf of a licensed importer instead of the pretaxed notation, a valid verification number provided before entry into Indiana by the department or the department's designee or appointee, and the valid verification number may be handwritten on the shipping paper by the transporter or importer.

A person is in violation of subdivision (1) or (2) (whichever applies) if the person boards the vehicle with a shipping paper that does not meet the requirements described in the applicable subdivision (1) or (2). A person in violation of this subsection commits a Class A infraction (as defined in IC 34-28-5-4).

(f) A person may not sell or purchase any product for use in the supply tank of a motor vehicle for general highway use that does not meet ASTM standards as published in the annual Book of Standards and its supplements unless amended or modified by rules adopted by the department under IC 4-22-2. The transporter and the transporter's agent and customer have the exclusive duty to dispose of any product in violation of this section in the manner provided by federal and state

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law. A person who knowingly:

- (1) violates; or
- (2) aids and abets another in violating;

this subsection commits a Class D felony.

(g) This subsection does not apply to the following:

- (1) A person that:
  - (A) inadvertently manipulates the dye or marker concentration of special fuel or coloration of special fuel; and
  - (B) contacts the department within one (1) business day after the date on which the contamination occurs.
- (2) A person that affects the dye or marker concentration of special fuel by engaging in the blending of the fuel, if the blender:
  - (A) collects or remits, or both, all tax due as provided in section 28(g) of this chapter;
  - (B) maintains adequate records as required by the department to account for the fuel that is blended and its status as a taxable or exempt sale or use; and
  - (C) is otherwise in compliance with this subsection.

A person may not manipulate the dye or marker concentration of a special fuel or the coloration of special fuel after the special fuel is removed from a terminal or refinery rack for sale or use in Indiana. A person who knowingly violates or aids and abets another person to violate this subsection commits a Class D felony.

(h) This subsection does not apply to a person that receives blended fuel from a person in compliance with subsection (g)(2). A person may not sell or consume special fuel if the special fuel dye or marker concentration or coloration has been manipulated, inadvertently or otherwise, after the special fuel has been removed from a terminal or refinery rack for sale or use in Indiana. A person who knowingly:

- (1) violates; or
- (2) aids and abets another to violate;

this subsection commits a Class D felony.

(i) A person may not engage in blending fuel for taxable use in Indiana without collecting and remitting the tax due on the untaxed portion of the fuel that is blended. A person who knowingly:

- (1) violates; or
- (2) aids and abets another to violate;

this subsection commits a Class D felony.

SECTION 2. IC 8-2.1-24-1, AS AMENDED BY P.L.42-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to the certification of a motor carrier providing

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intrastate transportation by motor vehicle of property or passengers for compensation.

**(b) Section 18 of this chapter applies to the regulation of the following persons:**

**(1) A motor carrier described in subsection (a).**

**(2) A private carrier of persons or property, or both.**

SECTION 3. IC 8-2.1-24-18, AS AMENDED BY P.L.21-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382 through 387, 390 through 393, and 395 through 398 are incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but are not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i):

**(1)** intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN"; ~~Except as provided in subsection (i); and~~

**(2)** all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

**(b)** 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, are incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

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must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

~~All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the~~ Maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection. ~~after June 30, 1998.~~

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21)

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years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has been diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is not otherwise physically disqualified under Subpart 391.41 to operate a motor vehicle, whether or not any additional disqualifying condition results from the diabetic condition, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A

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copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. Notwithstanding the requirements of this subdivision, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this subdivision.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate **motor** carrier:

(1) or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise; **or**

(2) **operating a motor vehicle exclusively in intrastate commerce that does not have a gross vehicle weight, gross vehicle weight rating, gross combination weight, or gross combination weight rating with a gross combination weight rating of equal to or less than twenty-six thousand one (26,001) pounds. However, the motor vehicle may not be:**

(A) **used to provide for-hire transport;**

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**(B) designed or used to transport sixteen (16) or more passengers, including the driver; or**

**(C) used to transport hazardous material in amounts requiring a placard.**

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 4. IC 8-3-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(b) As used in this chapter, "railroad" means a Class I, Class II, or Class III railroad as established by the Interstate Commerce Commission.

(c) A railroad may not store a railroad car, whether loaded or empty, on a track, sidetrack, siding, switch, spur, or turnout track within the limits of a municipality for longer than ninety (90) days unless the area of storage has been zoned appropriately as a confined area for railroad car storage.

(d) A railroad that stores a railroad car subject to subsection (c) shall place a tag on the railroad car prominently displaying the date that the railroad car was first placed on the track, sidetrack, siding, switch, spur, or turnout track. A railroad that fails to place a tag in this manner on a railroad car shall be assessed a civil penalty of one hundred dollars (\$100) by the department.

(e) A police officer who finds or is notified of a railroad car that does not bear a tag as required under subsection (d) shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, police officer's name, public agency employing the police officer, and address and telephone number to contact for information.

(2) That the railroad car is required to bear a tag as required by this section.

The police officer shall immediately notify the department of the placement of the notice tag by the police officer. The department shall maintain records of notifications by police officers.

(f) A railroad that fails to move a railroad car from a track, sidetrack, siding, switch, spur, or turnout track after ninety (90) days from the date of first placement on the track, sidetrack, siding, switch, spur, or turnout track shall be assessed a civil penalty by the department of five hundred dollars (\$500) a day for

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each day that the railroad car has remained on the track, sidetrack, siding, switch, spur, or turnout track, beginning with the ninety-first day of storage. For purposes of subsection (e) and this subsection, the date that the police officer has placed on the notice tag is considered to be the date of first placement of the railroad car. Each railroad car that is stored shall be assessed a separate civil penalty.

(g) A civil penalty assessed and collected by the department under subsection (d) or (f) shall be deposited by the department in the general fund of the municipality in which the railroad car that is the subject of the civil penalty is located.

SECTION 5. IC 8-3-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **Except as provided in section 1.5 of this chapter**, the term "railroad" as used in this chapter shall mean and include any railroad whether its locomotives are powered by steam, combustion-type fuel or electricity other than a hobby, tourist, amusement, and non-freight-carrying railroad.

SECTION 6. IC 8-3-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) **Except as provided in section 1.5 of this chapter**, a carrier subject to this chapter who knowingly violates or fails to comply with this chapter commits a Class B infraction.

(b) A carrier who fails to comply with any final order made against it by the department in any proceeding pending before the department, in which any carrier is a party, unless the order is suspended, annulled, or set aside by some court, shall forfeit and pay to the state for each violation of any such order a penalty of not more than one thousand dollars (\$1,000).

(c) A carrier subject to this chapter who knowingly charges, collects, demands, or receives from any person a different rate, charge, or compensation for the transportation of persons or property, or for any service performed or to be performed by the carrier, than that fixed in the schedule of rates filed with the department, the schedule of rates adopted by the department, or the schedule of rates ordered observed by any court, commits a Class A infraction."

Page 2, between lines 14 and 15, begin a new paragraph and insert: "SECTION 11. IC 9-13-2-42, AS AMENDED BY P.L.131-2008, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year for delivery in Indiana.

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The term includes a person who sells off-road vehicles **and mini-trucks**. A dealer must have an established place of business that meets the minimum standards prescribed by the bureau under rules adopted under IC 4-22-2.

(b) The term does not include the following:

- (1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.
- (2) A public officer while performing official duties.
- (3) A person who is a dealer solely because of activities as a transfer dealer.

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6):

- (1) boats; or
- (2) trailers:
  - (A) designed and used exclusively for the transportation of watercraft; and
  - (B) sold in general association with the sale of watercraft;

per year.

SECTION 12. IC 9-13-2-103.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 103.1. "Mini-truck" means a truck that:**

- (1) is powered by an internal combustion engine with a piston or rotor displacement of not less than six hundred sixty (660) cubic centimeters;**
- (2) is sixty (60) inches or less in width;**
- (3) has an unladen dry weight of one thousand six hundred (1,600) pounds or less;**
- (4) can achieve a top speed of not more than sixty (60) miles per hour;**
- (5) is manufactured with a locking enclosed cab and a heated interior; and**
- (6) is operated on a highway."**

Page 4, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 17. IC 9-17-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** This article does not apply to farm wagons or to a motor vehicle that was designed to have a maximum design speed of not more than twenty-five (25) miles per hour and that was built, constructed, modified, or assembled by a person other than the manufacturer.

**(b) IC 9-17-2, IC 9-17-3, IC 9-17-4, IC 9-17-5, and IC 9-17-8 apply to a mini-truck.**

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SECTION 18. IC 9-18-1-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2. This article applies to a mini-truck with the exception of the following:**

- (1) IC 9-18-7.**
- (2) IC 9-18-9 through IC 9-18-11.**
- (3) IC 9-18-13.**
- (4) IC 9-18-27.**

SECTION 19. IC 9-18-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 16. (a) A person who owns a vehicle must sign an application in ink to register the vehicle.**

**(b) An application to register a vehicle must contain the following:**

**(1) The:**

**(A) name, address for the bona fide residence, and mailing address, including the name of the county, of the person who owns the vehicle, and the numerical code assigned by the department of local government finance for the taxing district in which the bona fide residence of the person who owns the vehicle is located; or**

**(B) business address, including the name of the county, of the person that owns the vehicle if the person that owns the vehicle is a firm, a partnership, an association, a corporation, a limited liability company, or a unit of government, the following information:**

**(i) The business address, including the name of the county, of the person that owns the vehicle.**

**(ii) The numerical code assigned by the department of local government finance for the taxing district in which the business address of the person that owns the vehicle is located.**

If the vehicle that is being registered has been leased and is subject to the motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5, the application must contain the address of the person who is leasing the vehicle. If the vehicle that is being registered has been leased and is not subject to the motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5, the application must contain the address of the person who owns the vehicle, the person who is the lessor of the vehicle, or the person who is the lessee of the vehicle. If a leased vehicle is to be registered under the International Registration Plan, the registration procedures are governed by the terms of the plan.

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(2) A brief description of the vehicle to be registered, including the following information if available:

- (A) The name of the manufacturer of the vehicle.
- (B) The vehicle identification number.
- (C) The manufacturer's rated capacity if the vehicle is a truck, tractor, trailer, or semitrailer.
- (D) The type of body of the vehicle.
- (E) The model year of the vehicle.
- (F) Any other information reasonably required by the bureau to enable the bureau to determine if the vehicle may be registered. The bureau may request the person applying for registration to provide the vehicle's odometer reading.

(3) A space on the application in which the person registering the vehicle may indicate the person's desire to donate money to organizations that promote the procurement of organs for anatomical gifts. The space on the application must:

- (A) allow the person registering the vehicle to indicate the amount the person desires to donate; and
- (B) provide that the minimum amount a person may donate is one dollar (\$1).

Funds collected under this subdivision shall be deposited with the treasurer of state in a special account. The auditor of state shall monthly distribute the money in the special account to the anatomical gift promotion fund established by IC 16-19-3-26. The bureau may deduct from the funds collected under this subdivision the costs incurred by the bureau in implementing and administering this subdivision.

(c) The department of state revenue may audit records of persons who register trucks, trailers, semitrailers, buses, and rental cars under the International Registration Plan to verify the accuracy of the application and collect or refund fees due.

**(d) The bureau shall provide each applicant for registration with the taxing district information necessary to comply with subsection (b)(1). The department of local government finance and each county auditor shall provide the bureau with the information necessary to carry out this subsection for each application submitted for a registration year beginning after December 31, 2009.**

SECTION 20. IC 9-18-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) The bureau, upon registering a vehicle required to be registered by this chapter, shall issue a certificate of registration.

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(b) The certificate of registration shall be delivered to the person leasing the vehicle or to the person who owns the vehicle and shall contain upon the face of the card the following information:

(1) The name and address of the person leasing the vehicle or the person who owns the vehicle.

**(2) The numerical code assigned by the department of local government finance for the taxing district in which the bona fide residence or business address of the person who owns or leases the vehicle is located.**

~~(2)~~ (3) The date the card was issued.

~~(3)~~ (4) The registration number assigned to the vehicle.

~~(4)~~ (5) A description of the vehicle as determined by the bureau.

(c) If a certificate of registration is mutilated, destroyed, or lost, a duplicate certificate of registration must be purchased. The application for a duplicate certificate of registration must be accompanied by the service charge prescribed under IC 9-29.

**(d) The department of local government finance and each county auditor shall provide the bureau with any assistance necessary to enable the bureau to include the taxing district information required by subsection (b)(2) on each certificate of registration issued for a registration year beginning after December 31, 2010.**

SECTION 21. IC 9-21-8-46, AS AMENDED BY P.L.210-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 46. **(a)** A person may not drive or operate:

(1) an implement of agriculture designed to be operated primarily in a farm field or on farm premises; ~~or~~

(2) a piece of special machinery; **or**

**(3) a mini-truck;**

upon any part of an interstate highway.

**(b) In addition to the prohibition set forth in subsection (a), a mini-truck may not be operated on a divided four (4) lane highway."**

Page 4, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 23. IC 9-24-6-2, AS AMENDED BY P.L.188-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.

(b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. 31104, 49 U.S.C. 31301 through 31306, 49 U.S.C. 31308 through 31317, and 49 CFR 383 through 384, and may not be more restrictive than the federal

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Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law ~~106-159, 113~~ **106-159, 113** Stat. 1748).

- (c) Rules adopted under this section must include the following:
- (1) Establishment of classes and periods of validation of commercial driver's licenses.
  - (2) Standards for commercial driver's licenses, including suspension and revocation procedures.
  - (3) Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of Indiana residence.
  - (4) Development of written or oral tests, driving tests, and fitness requirements.
  - (5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including a unique identifier of the holder.
  - (6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.
  - (7) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.
  - (8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued. **The rules must carry out 49 CFR 383.71(b) with respect to an application for a commercial driver's license for a holder of a commercial driver's license in another state who seeks a transfer of the commercial driver's license to Indiana.**
  - (9) Other rules necessary to administer this chapter.
- (d) 49 CFR 383 through 384 are adopted as Indiana law."

Page 7, after line 4, begin a new paragraph and insert:

"SECTION 28. IC 34-13-3-3, AS AMENDED BY P.L.47-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.



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(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

- (A) a set of rules governing the use of the extreme sport area;
- (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
- (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

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(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an

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electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

**(24) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a:**

**(A) nongovernmental employee; or**

**(B) governmental employee not acting within the scope of the employee's employment;**

**on a public highway in a county road system outside the corporate limits of a town, unless the loss is the result of an act or omission amounting to gross negligence, willful or wanton misconduct, or intentional misconduct.**

SECTION 29. IC 8-2.1-24-2 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 30. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "bureau" means the bureau of motor vehicles created by IC 9-14-1-1.

(b) Notwithstanding IC 9-24-6-2(c)(8), as amended by this act, the bureau, under interim written guidelines approved by the commissioner of the bureau, shall provide that, after June 30, 2009, an application for a commercial driver's license for a holder of a commercial driver's license from another state be conducted in accordance with 49 CFR 383.71(b).

(c) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-24-6-2(c)(8), as amended by this act.

(2) December 31, 2010.

SECTION 31. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "bureau" means the bureau of motor vehicles created by IC 9-14-1-1.

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(b) As used in this SECTION, "mini-truck" has the meaning set forth in IC 9-13-2-103.1, as added by this act.

(c) Before July 1, 2009, in accordance with IC 6-6-5-3(b), the bureau shall determine the true tax value for each make and model of mini-truck, subject to review and adjustment by the department of local government finance.

(d) This SECTION expires December 31, 2010.

SECTION 32. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 249 as printed January 30, 2009.)

AUSTIN, Chair

Committee Vote: yeas 11, nays 0.

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